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The precarious life of cultural sector workers and artists, which is as apparently familiar as it is in fact difficult to capture within the specific rational context to which it belongs, has been revealed on a large scale and in great detail as a result of the pandemic, which at a stroke laid bare the existential limitations of an occupational sector which receives no unemployment assistance. In order to understand the wave of action launched by professionals, unions and other actors, it is necessary to revisit the history of culture policy in Portugal in terms of initiatives for regulating artistic and cultural work, especially over the last two decades. Covid-19 forced government into revisiting an area it had taken on long ago but which was handed down from one government to another, each one making little progress. The effects of this endless dragging out have been observable since March. Mobilisation of unions and collective platforms has given artists and cultural sector workers greater visibility, and their discourse, in the media and elsewhere, has clearly articulated how uncertainty, pluriactivity and lack of social protection continue to be the main characteristics of work in the arts and culture.

Keywords: culture, politics, work, rights

Introduction

Uncertainty, pluriactivity and lack of social protection are part of the specification for work in the arts and culture, which first came to the attention of the social sciences as a result of the challenges which artistic occupations bring to theoretical work on professionalization, training and recognition. In-depth understanding of these particular dynamics has proved especially enlightening for research on the knowledge economy which, with its flexibility and adoption of networking from the late 1970s onwards, imported and adapted modalities and values from the arts field and its ethos.

The strongest features of the uncertainty in working conditions in the arts and culture have ramifications in other aspects, reflecting the merging of the terms culture industries and creative industries since the 1990s: activities which are subject to irregular demand and are not regulated by any cultural or social authority; difficulties in controlling entry into the labour market and the competition for available positions; dedication to work which is mainly inspired by

¹ This text was originally published in a e-book dedicated to the creative and cultural work in the Covid-19 era, regarding the portuguese cenário: Leão, T. (Ed.).2020. Em Suspenso. Reflexões Sobre o Trabalho Artístico, Cultural e Criativo na Era Covid-19, *Cadernos da Pandemia*, vol. 5, 6-13. Instituto de Sociologia da Universidade do Porto. ISBN: 978-989-8969-61-3.

vocation, self-expression and autonomy; simultaneous performance of temporary work and different types of work not exclusively related to the world of arts and culture; intermittent or time-concentrated remuneration; unpaid work, as a condition of the search for and obtaining of opportunities for work, a way of life which excludes the economically and culturally disadvantaged; lack of boundaries between work and leisure time, encouraged by the digital economy; considerable amounts of time invested in physical and virtual sociability in order to obtain new work and projects and to add value to one's reputation; likely reduction in the time allocated to creative activities, on account of the growing need for artists to manage the dissemination of their own work and communication with spectators, readers and *prosumers*; tendency not to manifest publicly the less positive aspects such as lack of continuity, feeling worn down, and not having any safety net².

The pluriactive and precarious nature of artists' and cultural workers' lives is as apparently familiar to all as it is in fact difficult to capture within the specific rationality which underpins it, except for the small group of those with higher pay and regular salaries. There had already been plenty of signs of their vulnerability, mainly in periods of crisis such as the economic recession following the world financial crisis of 2008³. Twelve years later, the pandemic was a shock to the social system on a far wider scale, causing convulsions in all areas of life and activity, from ways of working and interacting to monitoring and surveillance, including the reconfiguring of artistic and cultural programming, in terms of both media and show times. Covid-19 has emerged as a powerful illustration of a total social phenomenon, the complexity of which predisposes to antagonistic and interdependent orientations. While establishing distancing and curfews, which have produced societal disintegration, it has operated as an unstoppable mechanism for showing up in detail the dramatic implications of general rules in patterns of recruitment, such as the habitual recourse to illegal hiring practices and the lack of social protection. While up to 2020 the dysfunctional nature of working conditions persisted, once theatres and cinemas had been closed, together with museums, libraries, cultural centres, art galleries, streets, monuments and other venues for festivals, movies filming and craft fairs, Covid-19 exposed the existential suffocation of yet another occupational segment mostly made up of self-employed and freelance workers with no unemployment benefits.

One of the earliest surveys on the consequences of the pandemic crisis for the cultural and arts sector in Portugal concluded that cancelled events represented a loss of 2 million euros, with 98% of workers interviewed reporting events cancelled and 85% being thrown into poverty with no entitlement to social protection⁴. Another questionnaire established that every show cancelled on account of the pandemic was equivalent to depriving 18 artists of their income⁵.

² The following stand out from a large group of writers and contributors to this topic: Banks, 2017; Becker, 1982; Boltanski & Chiapello, 1999; Boltanski & Esquerre, 2017; Freidson, 1986; Gill & Pratt, 2013; Greffe, 1999; Hesmondhalgh, 2008; Heinich, 2000; Menger, 1999; Sennett, 1998; Towse, 1992.

³ Garcia et al, 2018.

⁴ Questionnaire-based survey promoted by the *Sindicato dos Trabalhadores de Espectáculos, do Audiovisual e dos Músicos* – CENA-STE (<https://www.youtube.com/watch?v=85QUI5hyclQ>).

⁵ Survey undertaken by the *Fundação GDA (Gestão dos Direitos dos Artistas)* (Lusa in Público, 11.05.2020, "Covid19: um espectáculo cancelado equivale a 18 artistas sem rendimento").

The picture is all the more serious to the extent that employers of cultural workers have almost no contribution costs, except for a minority of those who are in salaried work and are part of a career structure. The mainly precarious nature of this type of work in Portugal has already been revealed in a series of more recent studies, in a report drawn up in 2015 by UNI Europa – Media, Entertainment & Arts, a transnational union organization which represents operatives, freelancers and contract workers in these sectors: most workers in film and television production were self-employed (using “green receipts”). Even if such arrangements have the characteristics of a work contract, this form of service provision delegates to the worker the responsibility for paying almost all his social security contributions and the whole of his self-employed workplace accident insurance premium⁶.

Contradictory forces have reshaped the sector: division and dispersal generated by isolation on the one hand, greater proximity and convergence on the other, accelerated by the urgency of the common need to ensure survival, to overcome the overwhelming crisis, to fill the void of work and communication. There was an increase in the frequency and number of live dialogues and conversations, more or less informal, on institutional websites and social networks; interviews in the media; instances of collective mutual help and appeals to the government for support and legislative change, with the syndicalist artist acquiring greater visibility. More intense discussion of job precarity amongst culture professionals refocused attention on government policy and social protection for the field of cultural work. In order to understand the wave of action launched by professionals, unions and other actors, it is necessary to revisit the history of culture policy in Portugal in terms of initiatives to regulate artistic and cultural work, especially over the last two decades and since the implementation of law 4/2008 dated 7 February 2008, which signed into law the basic framework of rules for theatre work contracts. As a preamble, some notes, in the form of the words of a musician and union representative, serve to provide a portrait of the cultural and artistic sector⁷.

In their own words: statements, problems and suggested solution

Workers, not employees

“when this situation began [the spread of Covid-19 and work stoppages], one of the words which kept appearing in the media was the word ‘employees’. But we, whether musicians, technicians, actors,

⁶ Portela, 2018.

⁷ These excerpts are statements we transcribed and in some cases edited slightly to make them easier to understand, of a union representative from the only union for professionals in this sector, the *Sindicato dos Trabalhadores de Espectáculos, do Audiovisual e dos Músicos* – CENA-STE (Theatre, Audiovisual Workers and Musicians’ Union, in a video produced by the same organization (May 2020, available on <https://www.youtube.com/watch?v=85QUI5hyclQ>) and in an interview with the television channel SIC Notícias (August 2020, available at <https://beta.sicnoticias.pt/cultura/2020-08-10-Entrevista-Rui-Galveias>).

performers or writers, started repeating that artists, technicians, culture workers, the professionals - are culture workers, and that word 'workers' I think was never used as much in this sector as it is now."

Varied activities, permanent training, concentrated remuneration

"cross-cutting measures [ministerial support for the emergency situation] were launched, but did not reach the majority of workers in this sector. The main [reason] is precarity. [The ministries] kept changing the way of reaching the self-employed, because they include some who've been working for months and those who work for six months a year and therefore concentrate their activity in that period (...) I work for months to prepare concerts, but I only invoice when I actually give those concerts. Right here there is a problem of defining who is a cultural sector worker, whether artists or technicians. Most of them are in permanent training. If we look at a sound technician, a lighting technician, a musician, an actor, they are always in training – and that part of our lives is not counted as work, even where a work contract is involved, that's the problem we need to solve."

"Someone on a call-in show was saying that artists should have other jobs (...). In our sector, we have 3 or 4 jobs. Many of us work in other areas beyond the culture field, whether related to it or not. Musicians, for example, give classes, they play in 3 or 4 orchestras, actors work for television, theatre and voiceovers, hundreds of things throughout the year. That is the reality of our world already (...) poverty and casual work eighteen hours a day doing several different things at the same time."

Emergency situation and possible solutions: a bigger budget for culture and legislative changes

"(...) we see that people are in extreme poverty, that many workers have no work and no form of support, that the sector, which was already in a precarious state, in fact was not ready for this situation, nor were the institutions (...) what the moment needs is emergency welfare support and radical measures, and we have to understand what is needed in each company, with its particular characteristics, so that workers do not quit this field (...) that's why the measures for which we've been arguing for months are still those which need to be implemented, and the government continues to attach little importance with these financial support lines, we know them and can see what's wrong with them immediately (...) there is a group of workers who for various reasons do not appear as culture workers, and for government they aren't culture workers (...) but it is they who keep going a lot of what passes for cultural activity and entertainment in Portugal."

[Interviewer:] You're describing an emergency situation, which is what the sector has been going through since the beginning of the pandemic, but culture has had an unsolved structural problem for years, do you think this time they will get to talking about a support system for artists, a health system, provide security even if minimal. These are not regular salaried jobs. Do you think this time it will work?

[interviewee:] As the Minister of Labour, and the Ministry of Culture with him, acknowledged at a given moment, it's of fundamental importance to ensure that culture workers have a contributions record which will allow them to make proper deductions and not impoverish them, which is what happens with most people who are on green receipts (self-employed), not just in culture – so, making it possible to qualify in the normal way, for unemployment, sickness and other benefits. That's what we would like for the future, a fundamental change in legislation, so that all self-employed workers can be assured of social protection, like any worker."

"(...) [we have to overcome] employer resistance to work contracts in the sector (...) [it doesn't make sense] the idea that green receipts are the solution. In addition, there's also a need to ensure that organizations, which are operating permanently at a loss (...) get other types of support. Extra provisions for culture in the state budget - we are arguing for at least 1% - and legislative reform so as

to protect people and ensure that they have access to other types of work contract – these are the solutions”

The new beginning and what to expect from arts and culture

“[when the recovery starts] we want to open the theatres and this in a sector which already not performing, unable to operate normally, we demand that [artists and organizations] provide for and implement health measures, [it’s assumed] that artists don’t need to be tested but [at the same time] they have to have individual dressing rooms; in other words, let the organizations and the artists get on as they are (...). We demand that the government ensure (...) that we start up again with social protection and with quality.

They say we bring joy and can be a powerhouse for the recovery (...). Often we’re not going to be the joy of the recovery, we’re going to be the catharsis of the recovery, we’re going to be the expression of all sorts of feelings about the recovery and this confinement we’re living through. But don’t ask us to be the smiley face of something which is far from going well for the majority of people and workers, and that’s where we all are.”

Mission to accomplish: a specific work contract framework for performing arts professionals

Work in the cultural sector is among the most regularly recurring topics in the culture sections of government legislative programmes, passed down from one government to the next. All contain the stated intention of supporting training and qualifications for creators and other culture sector professionals, and acknowledge the need to define a professional status to match the specific characteristics of creators and artists, by drafting suitable labour and social protection legislation. In 1976, the Mário Soares (Socialist Party) government’s programme set out to define a statute on “the status of the intellectual professional”⁸. In 2015, the Socialist Party government with the parliamentary support of the PCP (Portuguese Communist Party), BE (Left Block) and PEV (Green Party) - known as “Geringonça”⁹ - set itself the task of “regulating Work Contracts for Performing Arts Professionals and defining the Artist’s Statute”, with the aim of facing up to the “specific challenges of a sector in which there is a great deal of precarious and intermittent work - in particular, it lacks unemployment protection and rudimentary provision for old age”¹⁰. The partial implementation of these intentions and a series of successive postponements and impasses mark the progress of this decades-old government mission. The actions effectively taken fell short of dealing with the problems identified and did not fulfil the ongoing, unanimously expressed intentions. A detailed and contextualized approach to the steps of this task, in the 2000s, can be found in the study entitled

⁸ Legislative programme of the Mário Soares government, available at <https://www.historico.portugal.gov.pt/media/464012/GC01.pdf>. In 1976, Mário Soares (1924-2017) became the first constitutionally elected prime minister since the 1974 revolution.

⁹ Which literally means ‘a contraption’ and in this context an informal alliance cobbled together

¹⁰ Legislative programme of the António Costa (Socialist Party) government, available at <https://www.portugal.gov.pt/ficheiros-geral/programa-do-governo-pdf.aspx>.

Trabalho e Qualificação nas Atividades Culturais. Um panorama em vários domínios (Work and Qualifications in Cultural Activities. An Overview in various domains), published by the *Observatório das Atividades Culturais* (Cultural Activities Observatory), which was in operation from 1996 to 2013, the Ministry of Culture having been one of its founders and members¹¹.

In 1999 the Guterres (Socialist Party) government decided, in a joint despatch of the Ministries of Labour and Social Solidarity and Culture, to set up an inter-ministerial team to study and discuss issues relating to the contractual framework for performing arts professionals, to work on adjustments to the welfare system and to submit proposals for normative change. According to their sponsors, these measures were significant on account of the “profound changes in the Portuguese cultural scene, due to factors like the development of new technologies, government policies for the sector and people’s cultural practices, [which] require matching the legislation to the theatre arts in general, and in particular redefining the contractual conditions and social protection provisions for performing arts professionals”¹². The work of this team disappeared without trace. No results were published.

In 2004 the Santana Lopes (Social Democrat) government set up a working group whose mission was to identify the main issues in the theatre arts sector as far as labour legislation and occupational training were concerned, with a view to setting up a contractual regime for sector professionals. A report was drawn up in which possible scenarios were presented and discussed, explicitly touching on the doubts surrounding the nature and limits of government culture departments’ responsibilities for regulating this topic, to which labour, social security and education policies also apply¹³. Some of the bodies responsible for the social security and labour relations systems had already acknowledged the need to set up systems better suited to the specifics of cultural and artistic work, “finding the best ways of funding the systems so as to share the burden of contributions between the artists as beneficiaries [of social security], the entrepreneur who profits from the artists’ creative abilities, and finally society as a whole which is culturally enriched as a result of the actions of these agents of humanization of people’s lives”¹⁴.

Law 4/2008 of 7 February 2008 approved the Work Contracts Regime for performing arts professionals, and was contested by all the opposition parties, which judged it to be unsuited to the dynamics of the sector, because it did not cover certain occupations, did not define the applicable social security regime, postponing that issue to specific legislation (thereby

¹¹ Gomes & Martinho, 2009. This publication, available at <http://www.gepac.gov.pt/oac-1996-2013/gepac-oac/oac-obs-pesquisas.aspx>, was the outcome of a study commissioned and funded by the Ministry of Culture, “*A Cultura em Portugal: Diagnóstico e Prospecção*” (Culture in Portugal: Diagnosis and Forecast), which highlighted the issues surrounding work in the cultural sector, amongst other subjects. This study revisited and updated the research paper *Políticas Culturais em Portugal* (Cultural Policies in Portugal), covering the period from 1985 to 1995, also carried out by the *Observatório das Atividades Culturais*, and published in 1998.

¹² Joint despatch 73/2000 dated 22 December 1999. *Diário da República*, II SÉRIE n.º 17, 21 January 2000, 1306.

¹³ Silva, 2005.

¹⁴ Duarte, 2000.

maintaining the system which dated back to the early 1980s¹⁵) and leaving out the self-employed. This law also omitted any mention of which departments of the Ministry of Culture would be responsible for a dedicated register of “performing arts artists”, giving them professional titles; this issue too was postponed for further legislation in the near future, perhaps also on account of differences of view of government bodies and professional associations as to which body had authority to certify professional status¹⁶.

In the light of the need to review the previous legislation within four years, law 28/2011 dated 16 June 2011 brought in changes to the performing arts professionals work contracts regulations and established the applicable social security rules. Artistic, technical and mediation profiles in the performing arts and audio-visual sectors were now covered, and provision was made for the indefinite term work contract, used for situations of intermittent employment. It set up the National Register of Professionals in the Artistic, Cultural and Performing arts Activities Sector, making registration compulsory for access to government-organized professional and technical training and for issuing certificates proving the holder’s professional status. This law put off nominating which department would be responsible for the register, which only came into force in 2017, almost ten years after law 4/2008; the body responsible for organizing the register is the *Inspecção Geral das Atividades Culturais*¹⁷ (General Inspectorate of Cultural Activities). Sector professional organizations have pointed to the need to review and update the listings of eligible professions, so that this instrument is “properly used to its full potential”¹⁸.

A further change to law 4/2008 was made in 2019, under law 22/2019 of 22 February 2019, which defined the work contract regulations for classical and modern ballet professionals. This law made progress towards recognition of these professionals’ qualifications. It was criticised, however, for not providing a system of specific retirement pensions to reflect the physical wear and tear of this profession, which demands long periods of training and in which careers are long¹⁹. In addition, there was still a lot to be corrected in the performing arts professionals work contract regulations, given that the way law 4/2008 had been applied was proving counter-productive in terms of its aim of protecting those who work intermittently²⁰. In order to prevent it being distorted and abused, putting workers in an even worse position, it was suggested that the amended law be incorporated into the Labour Code, and some of its articles revised²¹. Specific cases of abuse of that regulation, as well as being evaluated in the courts and analysed

¹⁵ Decree-Law 407/1982 dated 27 September.

¹⁶ Gomes and Martinho, 2009.

¹⁷ Order (*Portaria*) 156/2017, dated 21 June.

¹⁸ In *Medidas para o setor das artes do espectáculo e do audiovisual* (CENA-STE), available at <http://www.cena-ste.org/>.

¹⁹ According to the opinion of CENA-STE, which also criticised the fact the ballet dancers in the National Ballet Company would automatically be required to retrain after age 45. In <http://www.cena-ste.org/noticias/arquivo/2018-12/entry.html?ref=465&blog=noticias>.

²⁰ Neto, 2018; Portela, 2018.

²¹ Neto, 2018. In 2016 the *Bloco de Esquerda* put forward a draft law to correct some of the provisions of the Performing arts Professionals Work Contract Regulations, as approved by law ° 4/2008 dated 7 February 2008.

by sector unions, were reported and discussed in the thesis entitled *Na boca de cena da (des)regulação do regime jurídico do contrato de trabalho dos profissionais do espetáculo* and in the report entitled *O estatuto profissional do artista. Regime laboral e de segurança social*, sponsored by the *Fundação GDA-Gestão dos Direitos dos Artistas*, both in 2018²².

Current and future chapters: actions, proposals, reflections

One of the consequences of Covid-19 has been that government departments responsible for culture have been forced to revisit a case which they had taken on long ago and which had been passed on from one government to the next, each one leaving it unsolved. Since March it has been possible to see the disastrous effects of this situation. In May, the Ministry of Culture announced the formation of a new working group, made up of representatives from various ministries and professional associations, with the aim of updating work contract and social security regulations for culture professionals. This group has committed to submitting, by the end of the year, draft regulations for the intermittent culture worker, requesting that all the parties to this should demonstrate “involvement and consensus”²³. In connection with funding lines made available to deal with the emergency, the minister for culture has repeatedly emphasized how the government was able to carry out “in three months that which it takes nine months to do”, “something which has never happened before in the history of democracy”²⁴. The emphasis on speedy action – even if the support continues to be seen as a very long drawn out response, well below what is needed and involving distortions in how the amounts are assessed²⁵ –, corroborates governments’ ability to intervene more quickly when faced with public and almost universal demands for government help and support to protect all those affected by the crisis and the anticipated recession²⁶. It was also demonstrated that the free market, by itself, had no self-adjustment mechanism to generate recovery²⁷.

Performing arts worker representative bodies revisited and updated old claims and proposals, seeking to contribute to bringing about a meaningful turn of events and founding a “sustainable and sustained sector”, not one based on “handouts and subsidies”²⁸. The objectives of change relate to: work contracts, for which they seek compliance with labour law in the arts and culture sector, including indefinite term work contracts for those who work permanently for one

²² Neto, 2018; Portela, 2018.

²³ Lusa in *Expresso*, 26.06.200, “*Ministra da Cultura pede consenso sobre estatuto do trabalhador intermitente*”.

²⁴ In an additional budget provision, involving several lines of funding, with a forecast total value of 70 million euros (Lusa in *Expresso*, 26.06.2020).

²⁵ Felizes, 2020.

²⁶ Banks, 2020

²⁷ *Ibid.*

²⁸ In the words of a representative of the Culture Convergence Platform, established in 2020 (Lusa in *Público*, 01.09.2020, “*Agentes culturais concentraram-se em Lisboa para ‘brinde à ignorância da ministra’*”).

employer; social protection in times of illness, unemployment and parenthood; recognition of the discontinuous nature of the work, as a condition for accessing continuous remuneration by way of unemployment benefit; investment in culture policy by increasing funding for artistic and cultural organizations. There is a growing perception that these measures and actions are interdependent, in particular increased public investment in culture is inextricably tied to ensuring “dignified” social and working conditions as “the guarantee of better culture and artistic production in our country”²⁹. There are some subtle differences in the various communiques and manifestos put forward by unions and cultural workers’ platforms, which it is important to monitor and analyse in the context of the different professions and sub-areas of the cultural and creative sector and also in the light of the history of union intervention, another field which has revived in 2020. It is also important to carry out a comparative analysis, to include knowledge of the dynamics of other employment sectors which have similar traits, problems and aspirations, such as academic research and social work³⁰. At the beginning of October, after four months of negotiations between the government and various performing arts and audio-visual professionals’ bodies, the latter expressed some discontent and concern that the “key issue of social protection” was not on the agenda for future meetings, in connection with the register of professionals and employment regulations³¹, interpreting that absence as a sign of lack of willingness on the part of government representatives to “effectively change the unsustainable context in which those who work in these areas find themselves”³².

“Often we’re not going to be the joy of the recovery, we’re going to be the catharsis of the recovery, we’re going to be the expression of all sorts of feelings about the recovery and this confinement we’re living through”, said one artist about the expectations for artists and culture workers to put on a “happy face” in their work, when work restarts – since June, this has been little by little, and for no-one who knows how long. Nor can we exclude the probability that these workers’ questioning of the idea that art and culture are engines of joy arose and developed from their having examined their role and purpose, at a time of social collapse and beyond. Among the lessons to be drawn from the sudden suspension of life in 2020, warnings have already gone out in the discourse of lockdown about the role which the symbolic language of art and culture plays in boosting the power of social criticism, risking the erosion of this role and its reduction to a source of entertainment. Where will art as dissidence find itself? Where

²⁹ In a joint comunique by APR-*Associação Portuguesa de Realizadores*, PLATEIA-*Associação de Profissionais das Artes Cénicas* and *Sindicato dos Trabalhadores de Espectáculos, do Audiovisual e dos Músicos* – CENA-STE, submitted to the government in July. Available at https://www.facebook.com/plateia.pac/posts/2605040809718777?_tn=K-R. The *Convergência pela Cultura* (Convergence for Culture) platform also submitted an extensive manifesto in August, available at <https://www.facebook.com/notes/converg%C3%Aancia-pela-cultura/anexo-i-manifesto-da-plataforma-c%C3%ADvica-converg%C3%Aancia-pela-cultura/10159234642483488/>.

³⁰ Nicolas-le Strat, 2005.

³¹ *Expresso*, 04.10.2020.

³² *Ibid.*

will art be in the deconstruction of the political responses to the pandemic and its consequences for our lives?³³

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³³ Banks, 2020.

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This text was translated with the support of FCT - Fundação para a Ciência e a Tecnologia, I.P. , through its project UIDP/50013/2020